

Aleksei Kurgvel
Emigration Center, Villa D 6
(24a) WENTORF

To Mr. W. Davis
c/o American Express Co
Brienner Str. Munich

14 Sep 1951

Dear Sir:

It seems that my disbelief concerning the troubles with the IRO were grounded.
Today the situation is as follows:

Mr. Trippe has informed the LWF (Lutheran World Federation) in Frankfurt, and from there a new E.C. Number has been sent for Mrs. Kurgvel and our son Rein.

The US DP Commission in Wentorf was informed from the case by Mr. Trippe directly or through the LWF.

Miss Gardener from the DPC informed the Welfare Officer of the IRO in Wentorf, Miss Rosenbaum. Both last mentioned officers find that this is a "Split of Family case". This means that a decision or approval of the Zonal Welfare Committee (ZWC) of the IRO in Hamburg is needed.

A "split of family" can't be requested before a written excluding decision of the BSI (or INS) will be sent to Wentorf. Till now no news has arrived from INS Munich in my case since my return from Munich.

The procedure of requesting and deciding upon a split of family case takes usually months. It is possible that a split will be approved in our case, but this is not sure, because the case is not a usual one.

When the split will be approved by the ZWC then my wife will have to fill out a new CM/1 Form, and here the real trouble starts again:

- a) When she gives right information concerning her whereabouts, then the IRO Eligibility Officer will have to ask her about the old activity and the whereabouts of the head of family, too, although the last one has been found inadmissible and will not use the help of the IRO any longer. According to the instructions in vigor Mrs. Kurgvel will be declared ineligible because of the record of her husband!
- b) When Mrs. Kurgvel will repeat the same information which I gave to the IRO in 1949, then the Eligibility Officer will probably make no difficulties. But the US DP Commission, or the Consulate, or the INS, knowing the right data from my records, will find out the discrepancies and will thus have a very good reason for finding my wife inadmissible. The old CM/1 Form was signed by me and this was the reason why the INS (BSI) found me inadmissible under Section 10 in connection with Section 2 (b) of the DP Act as amended, whereas Mrs. Kurgvel and our son, bearing no responsibility for my "delinquency" were found admissible (on 7 September). When now Mrs. Kurgvel will sign such an Application Form then she will be responsible for the misrepresentation of facts and consequently she will be found inadmissible, just like the BSI made with me despite the good reason I had for this concealment.
- c) A vague possibility of passing could be found when the American authorities in question should agree in silence with Mrs. Kurgvel's presenting the old information to the IRO. But it is rather unbelievable that this will work now after the experiences we have had

/ P.T.O.

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with my case already.

- d) Nobody finds a way how my wife and son could pass with the old CM/1 Form signed by me, with the "guilt" remaining on me.

This is the information I could collect here speaking to a very competent officer of the IRO who knows my real story from 1949 already and whom I can trust. The same was told to me by Mr.G. of whom I have spoken to you earlier. I did not need to tell them anything more of my case they knew already. They both were of the same opinion that I can't allow my wife to give the right data to the IRO and even not to every officer of the DPC.

This information confirms taht the new decision of the BSI of 7 Sep has no practical value.

As to my understanding the best, and still possible, solution would be ~~that~~ that Mr. Rawitz and Mr. Trippe take into consideration the brief meanwhile filed by Mr. Christiansen and return my case to the BSI for a new, third hearing, when they can't reverse the excluding decision of the Board immediately. My two letters of 5 Sep and my affidavit sworn to before the Immigration Inspector on 7 Sep, may be laid aside as being given under the single wish to help my family, which did not come true.

I, of course, do not know the rights and the duties of the American officials, but I think that an officer in such a high position as the Acting Assistant Commissioner of the INS may not be compelled ~~to~~ follow the letter of the Law only, but is qualified and authorized to consider the sense of the Law, too, which is higher in its value than the letter. Already the plain fact that one of the members of the BSI did not agree with the excluding decision of 21 July, shows that either the members of the BSI were entitled to consider the sense of the law, or that even the letter of the law, as to the understanding of this Member, are not against me. I should never touch the possibility of a new hearing, should I not be convinced that the sense of the American laws in question is on my side. Therefore, I think, it can't be impossible for Mr. Rawitz to return my case to the BSI, perhaps in an other composition, and to advise the Board to give this case a thorough consideration from point of view of the sense of the DP Act, as amended, too.

I can't believe that the American legislators did not remark the controversy between the Section 2 (b) and the Section 13 of the DP Act, as amended. By amending the Section 13 of that Act the American legislators showed the volition of the States, that the States are not against the immigration of those honest soldiers who fought ~~again~~ against the communists already before the States started this fight. When the Section 2 (b) remained unchanged, then this means that there were some reasons for that. The States are able to follow its volition without changing the wording of that section, considering the sense of this section as understood by the American lawyers and not by some casual official of the IRO whose reliability can't be checked by the American authorities.

All the trouble would drop at once when the INS will give my case free in due time so that the visa, already issued, can be used.

Very sincerely yours

A. Trippe

*Comm. and Sent.
20 Sept.
D.R.*

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